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KNOBBE, MARTENS,
OLSON & BEAR, LLP
2040 MAIN STREET
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of :
Eaton et al. :
Application No. 10/063,602 : LETTER REGARDING
Filed: May 3, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. P3230R1C001-168:

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT CALCULATION" filed March 2, 2007. Pursuant to their duty of good faith and candor to the Office, applicants disclose that the patent term adjustment of 216 days indicated on the determination of patent term adjustment may have been done incorrectly.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one hundred forty-seven (**147**) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 27, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b), in the above-identified application. The Notice stated that the patent term adjustment to date is 216 days. Applicants provide no basis for their assertion that the patent term adjustment calculation is incorrect.

Nonetheless, a review of the record confirms that it is. 37 CFR 1.704 (c) provides that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, in response to the final rejection mailed March 6, 2006, on July 7, 2006, applicants filed a Request for Continued Examination, an Amendment and an Information Disclosure Statement. Thereafter, on September 11, 2006, applicants filed a supplemental response and on September 14, 2006, applicants filed an Information Disclosure Statement (IDS). The IDS did not include a § 1.704(d) statement. Accordingly, pursuant to § 1.704(c)(8), an additional period of reduction of 69 days should have been entered for the filing of the response on September 11, 2006 and the IDS on September 14, 2006 (e.g., for the period July 8, 2006 to September 11, 2006 and July 8, 2006 to September 14, 2006, with overlapping days being counted only once).

In view thereof, it is concluded that the determination of PTA at the time of the mailing of the notice of allowance is ONE HUNDRED FORTY-SEVEN (147) days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the \$200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Office

of Patent Publication for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a large, stylized flourish at the end.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PALM Screen

PTA Calculations for Application: 10/063602			
Application Filing Date:	05/03/2002	PTO Delay (PTO):	375
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	159
Post-Issue Petitions:	0	Total PTA (days):	147
PTO Delay Adjustment:	-69		

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56	11/22/2006	ISSUE REVISION COMPLETED			
55	11/22/2006	EXAMINER'S AMENDMENT COMMUNICATION			
54	11/22/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	11/22/2006	NOTICE OF ALLOWABILITY			
52	07/07/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	09/14/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	09/11/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
49	09/21/2006	DATE FORWARDED TO EXAMINER			
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26	06/30/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
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22	06/21/2005	ADVISORY ACTION (PTOL-303)			
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19	12/23/2004	MAIL FINAL REJECTION (PTOL - 326)			
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11	06/04/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	08/29/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	05/07/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO			

		DATABASE			
8	07/29/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	07/24/2002	APPLICATION DISPATCHED FROM OIPE			
6	07/23/2002	APPLICATION IS NOW COMPLETE			
5	05/16/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	05/14/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	05/03/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
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EXPLANATION OF PTA CALCULATION

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